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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/687,348	10/12/2000	Ramesh Nagarajan	16-13-2	9948
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22046 7590 07/12/2005

LUCENT TECHNOLOGIES INC.  
DOCKET ADMINISTRATOR  
101 CRAWFORDS CORNER ROAD - ROOM 3J-219  
HOLMDEL, NJ 07733

EXAMINER

LEE, CHI HO A

ART UNIT

PAPER NUMBER

2663

DATE MAILED: 07/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/687,348

Applicant(s)

NAGARAJAN ET AL.

Examiner

Andrew Lee

Art Unit

2663

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 13-17, 21 and 38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 13-17, 21 and 38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 13-17 are rejected under 35 U.S.C. 102(e) as being anticipated by Rau U.S. Patent Number 6,304,569.

Re Claim 13, fig. 1 teaches a LICI that duplicates the received cell message (a signaling packet) and transmits the message cell (multiple copies) through redundant paths (a plurality of communication paths) via ASN0 and ASN1 to destination selection stage. The duplicate message cells are stored at the selection stage whereby the received series number (received packet identifier) is compared with the incremental series number (a counter value) wherein the message cell is selected based on the incremental result at the selection stage (See col. 4, lines 15-56). Furthermore, the selection of the message cell is selected without regard to the diverse communication path on which it is received because the selection of the message cell is based on the incremental comparison.

Re Claim 14, refer to claim 13, the ATM network is the transport network wherein the intermediate switches (neighboring node) is determined as a function of a network topology of the transport network.

Re Claims 15-17, refer to Claim 13, wherein if the comparison between the received series number is less incremental series then the message cell is discarded.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 21 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rau U.S. Patent Number 6,304,569 in view of Madour et al U.S. Patent Number 6,611,532.

Re Claim 21, Rau teaches that the signaling packet is ATM base, however fails to explicitly teach signaling packet is formatted in accordance with an IP. Madour et al teaches in fig. 1 the integration of IP network layer protocol with a link layer of ATM protocol. One skilled in the art would have been motivated to modified the cell based signaling packet with the IP base signaling packet to be usable in different link layer protocols such as FD, FDDI.

Re Claim 38, Rau fails to explicitly teach that signaling packet identifier is conveyed in an additional shim header of a MPLS packet. Madour teaches IP layering with MPLS in fig. 4, wherein a MPLS packet includes a network layer header, a shim

Art Unit: 2663

label header and link layer header. Madour further teaches that the label can include plurality of information fields (See col. 4, lines 48-68) such as sequence numbers.

Hence, one skilled in the art would have been motivated by Madour to modified the signaling packet in Rau to insert the sequence number in the Shim header of the known MPLS packet to take advantage of efficient routing mechanism found in MPLS (See col. 2, lines 9-21).

### ***Response to Arguments***

5. Applicant's arguments with respect to claims 13-17, 21, 38 have been considered but are moot in view of the new ground(s) of rejection.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Lee whose telephone number is 571-272-3130. The examiner can normally be reached on Monday to Friday from 8:30AM to 6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Ngo can be reached on 571-272-3139. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2663

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AI

7/7/05



ANDY LEE  
PATENT EXAMINER